NOTES

WASHINGTON NOTES

THE ANTI-TRUST MESSAGE

President Wilson, in a message read to Congress on January 20, has definitely outlined the anti-trust program of the administration. The document is of the first importance because it virtually indicates the line that is to be drawn between the various measures that have been competing for attention in Congress, indicating those that will and those that will not be favorably regarded. This message may be taken to represent practically what has been determined on, and what will undoubtedly become law during the next few months. As thus mapped out, the legislation to be demanded will include:

1. Prohibition of interlocking directorates.

2. Government supervision of the issues of railroad securities, such supervision to be carried on by the Interstate Commerce Commission.

3. Definition of what acts are to be included as "restraints of trade" under the Sherman anti-trust law.

4. Establishment of a "trade commission" to work out and apply the administration of the measures devised for the restraint of combinations.

5. Establishment of individual penalties to be visited upon those who are responsible for restraints of trade under the Sherman act, and under such supplementary legislation as may be adopted.

6. Prohibition of holding-companies, with possible limitation of voting power on shares held by individuals in a variety of corporations.

7. Establishment of the legal right of individuals to bring suits for collection of damages from industrial combinations found to be such through the medium of suits instituted by the government.

Of this large program practically every item has already been elaborately discussed and is represented by several bills pending in Congress. On the whole the program is nearer than any other to what has ordinarily been referred to as the "Brandeis-La Follette" program, embodied in bills said to have been drafted by Louis D. Brandeis of Boston and introduced by Senator La Follette. The proposal to define restraints of trade, the prohibition of holding-companies, and the creation of a basis for individual suits were clearly included in that plan. The interlocking

directorate proposal is a plan that has been before Congress for a number of years, but was most strongly urged at the time of the Untermyer "money trust investigation" about a year ago. The supervision of railroad securities through the Interstate Commerce Commission is a suggestion that has been urged in times past by many different groups in Congress and was rather strongly presented to the legislative body by President Taft, first in an extreme form at the opening of his administration, and later in a modified shape after recommendations had been made by the so-called "Railway Securities Commission" of which President Hadley of Yale University was the head. The proposal to penalize individuals who are guilty of bringing about restraints of trade is also a familiar scheme which has been prominently urged by a good many of the southern and southwestern members of the House of Representatives who are known for their hostility to industrial combinations. Perhaps the latest exponent of this type of legislation is Representative Henry of Texas, the chairman of the House rules committee, who some time ago introduced a modification of the anti-trust law intended to meet the anti-trust situation by enforcing prison penalties for violations of the law. Although the message in general is framed in extremely soothing terms, it will thus be seen that there is included in it some portion of nearly every anti-trust measure, however radical, and whatever its source, that has figured prominently of late years. In no case does the recommendation made go to the extreme limit of the plan from which it was drawn. Thus, for example, the older suggestions for a trade commission contemplated a body vested with power to fix prices of goods which moved in interstate trade. Nothing of the kind is now recommended by the President. In like manner nearly all of the other elements have been softened and smoothed in his program. Interlocking directorates are not to terminate for some time to come—for two years or a longer period; the right of individuals to sue for damages is much more restricted than was prescribed by the early La Follette bills; and the plan for defining restraints of trade, so far as it is worked out, is by no means so far-reaching as the measure from which it has been borrowed. Because of these extensive and careful modifications, the message has not aroused the anxiety in the business world that would otherwise, almost necessarily, have been exhibited as a result of it.

The so-called "keynote" of the message is probably found in the following paragraph: "When serious contest ends, when men unite in opinion and purpose, those who are to change their ways of business joining with those who ask for the change, it is possible to effect it in

the way in which prudent and thoughtful and patriotic men would wish to see it brought about, with as few, as slight, as easy, and simple business readjustments as possible in the circumstances, nothing essential disturbed, nothing torn up by the roots, no parts rent asunder which can be left in wholesome combination. Fortunately, no measures of sweeping or novel change are necessary. It will be understood that our object is not to unsettle business or anywhere seriously to break its established courses athwart. On the contrary, we desire the laws we are about to pass to be the bulwarks and safeguards of industry against the forces that have disturbed it. What we have to do can be done in a new spirit, in thoughtful moderation, without revolution of any untoward kind. We are all agreed that 'private monopoly is indefensible and intolerable,' and our programme is founded upon that conviction. It will be a comprehensive, but not a radical or unacceptable programme."

A NEW ANTI-TRUST POLICY

President Wilson has succeeded in developing a distinctly new phase of the subject of trust control by securing from industrial managers assent to his plans for dissolution or reorganization, in a sufficient number of cases to constitute a precedent. The same methods had been tried during the Taft administration and earlier, and in certain instances corporations had thought it better to assent to the terms laid down by the government than to attempt to resist the public authorities in suits at law. These instances, however, were not very numerous, and in most cases involved concerns which had been obviously and flagrantly acting without reference to the anti-trust law, so that their action was really no more than the admission that they had a poor defense. The settlements that are now being obtained, of which the readjustment of the American Telephone and Telegraph Co. and the dissolution of the New Haven Railway are examples, afford a much more striking instance of this kind of mediation with a view to the establishment of the principles of the Sherman law upon a definite basis. In each of these cases, the basis of adjustment is that of a gradual separation between the parent-corporation which originally embarked upon an effort to monopolize a particular kind of business, and the concerns which have gradually been absorbed in the process of carrying out this program of monopoly. Thus in the New Haven case the ultimate settlement will imply disposal of the New England trolley systems and the placing of the steamship lines owned by the railway upon an independent basis. The same plan has been quite fully worked out in the

case of the American Telephone and Telegraph Co., where to the provision for segregation is added provision for permitting other concerns to use the lines of the company at a specified rate fixed alike to all who make use of the privilege thus afforded them. The principles of adjustment in these cases are to be regarded as constituting a distinct advance over those which were developed in connection with the separation of the Union Pacific and Southern Pacific railways which was finally consummated less than a year ago, where the process of breaking up the monopoly consisted largely in a separation of stock ownership. The new arrangements in the case of the companies just mentioned, as well as in other instances of a similar sort, are intended to add real elements of restored competition as well as the idea of regulation (where a practical monopoly in part exists) of the charge for service and of the conditions of use both by the public and by competitors. On the other hand, the breakdown of negotiations between the Department of Justice and the American Sugar Refining Co. and other concerns which have been under attack shows that there are very distinct limits to what can be done in the direction in which the authorities of the Department of Justice have been working during the past few months. In general, it would seem that the results of the findings of the Supreme Court in the Standard Oil and Tobacco cases and in some of the more recent but less notable decisions involving the matters of industrial combinations are just beginning to be realized, and that corporations of a certain class, under the advice of their counsel, are showing a disposition to accommodate themselves to the changed state of affairs produced by these verdicts. This, however, still leaves open a very large field within which much work will have to be done in order to bring about definite results.

COMPILATION OF ANTI-TRUST LAWS

Preparatory to the opening of the anti-trust discussion, a new compilation of laws on trusts and monopolies domestic and foreign, with authorities, has been prepared and published as a public document by the Judiciary Committee of the House of Representatives, as a committee document. In this compilation are given, in addition to the Sherman anti-trust law, selections from the acts of August 15, 1894; February 12, 1913; February 4, 1887 (Interstate Commerce act); February 11, 1903; March 7, 1906; March 21, 1906; act of June 25, 1910; and, finally, the judicial code of January 1, 1912. Various other fragmentary provisions bearing upon the whole subject have been drawn together from a number of sources found in various acts extending

through a series of years. Recourse is then had to the state statutes, and the laws of practically every American state are drawn upon for constitutional provisions, legislation, and court decisions affecting questions of monopoly and combination. Among foreign countries, Australia, Canada, Great Britain, Japan, and several others supply examples of restrictive statutes which are cited verbatim with explanations to show their bearing. The document also gives a complete compilation of the cases decided under the Sherman law or relating thereto, with references to case books and the like. A special group of cases deals with price-fixing and resale contracts which constitute a subject of collateral interest not directly belonging to the control of industrial combinations as such. This document is probably the most complete compilation of the kind that has thus far been made available.

EFFORTS TO ESTABLISH A CENTRAL BANK

The actual signing of the federal reserve act on December 23, 1913, makes the so-called currency bill a law (Public Act No. 43, 63d Congress, 1st sess.) and terminates for the time being the controversy as to banking and currency legislation. Since the adoption of the law, the reserve bank organization committee, created by the measure itself with Secretary of the Treasury McAdoo in charge, has held hearings at New York on January 5, 6, and 7, at Boston on January 9 and 10, and at Washington on January 14, 15, and 16, and has announced hearings to occupy a month at twelve other important cities, for the purpose of taking testimony with regard to the best plan to be followed in districting the entire country in accordance with the provisions made in the federal reserve act itself. In its final form the act calls for not fewer than eight nor more than twelve institutions, and the apparent trend of the hearings up to this time has seemed to be toward the higher number, or, at all events, toward some number intermediate between that and the lower number. The striking feature of the testimony thus far developed has been seen in the effort of some New York banks to obtain for New York the creation of a very large reserve bank including the bulk of the eastern portion of the country, and dominating the banking situation of the whole country by reason of its commanding size and tremendous capitalization. The demand for such an institution was boldly made during the hearings in New York, it being suggested that the territory assigned to the institution in question should include everything north of the Potomac River and east of the Great Lakes or, preferably, everything as far west as the Mississippi. Some

other bankers suggested that the territory to be assigned to this bank should be a long narrow coast strip taking in the whole of the Eastern states—that is to say, all territory east of the Alleghany Mountains. Alternative to these suggestions were plans for the creation of a reserve bank at Boston, another at Atlanta, Georgia, and one at Washington, with possibly an institution at Philadelphia as well. While there was nothing in the statements made by the reserve bank organization committee at its sessions in New York, Boston, or elsewhere, to indicate that it intended to give favorable consideration to any of the plans laid before it, there was a manifest recognition of the fact that the reserve act undoubtedly calls for the establishment in good faith of at least eight institutions substantially similar in size and resources, or as nearly so as the conditions of the country will permit, in order that the principle of local segregation of reserves, and the application of such reserves to the purposes of the several communities furnishing them to the reserve banks of their districts may be carried out. Enough work has been done to make it plain that the organization committee will have before it a somewhat delicate task in laying off the various districts, inasmuch as it will be practically necessary to avoid trespassing upon local pride so far as possible in dividing the country between sections that are dominated by rival cities. While, therefore, it is perceived that there will be no serious difficulty in placing the reserve banks in convenient locations, and while this work could be done without very much detailed investigation, it is also evident that to place two rival cities in the same district, making one of them the seat of a federal reserve bank and assigning to the other only a branch office at most, would cause a good deal of prejudice and disturbance. Efforts to settle such difficulties will probably be the task that will give rise to greatest friction and annoyance during the process of mapping out the territory of the United States for the purpose of creating the banks in question.

ENTERING THE RESERVE SYSTEM

Secretary of the Treasury McAdoo's first steps for actually putting the reserve act into operation have brought out a number of points of considerable interest besides indicating some weaknesses in the act itself. Immediately upon the passage of the law telegraphic and other informal applications for admission to the new reserve system began to pour into the Treasury Department, but it was at once seen that some formal mode of carrying out the intent of the statute must be developed. It was determined to send to each bank a formal letter

of notification of the passage of the law, accompanied by a copy of the act itself with request for decision as to membership in the new system. This at once raised the question whether action by stockholders was necessary in order to decide whether a given bank should apply for membership or not. The reserve bank organization committee decided this question in the negative, holding that an affirmative vote of the board of directors was sufficient. In spite of this conclusion, however, many banks have not contented themselves with directoral action, but have preferred to submit the matter to a stockholders' vote. This has been the case particularly in the larger cities, and accounts for the fact that the banks in some cases have been slow to enter the system, it being thought wise to hold special meetings of stockholders in numerous instances—a decision which usually required about thirty days' delay following the notification that such a meeting was to be held. It would have been well had the act specifically laid down the details of the process by which banks should signify their intention of becoming members in the reserve system, thereby doing away with all possibility of controversy. It is not, however, deemed probable that legal difficulties will be raised with reference to the validity of the directors' meetings at which a decision to enter the reserve system is arrived at, as expert opinion is to the effect that bank directorates are vested with sufficient power to decide the question of membership in the reserve system.

CITY AND COUNTRY BANKS

Up to the middle of January about fifteen hundred banks had formally applied for membership in the federal reserve system. Of these only a small proportion were state banks. Most of the larger national banks of the country have already indicated a disposition to become stockholders in federal reserve banks. While a considerable number of country banks have also made application, the proportion is much smaller. Few state banks outside of the larger cities have filed applications. This is in accordance with the expectations expressed during the time the bill was under debate. It is the larger banks of the cities which are most familiar with the terms of the law and with its significance; while it is this class of banks that in the past has gained experience of the benefits of joint action and co-operation, under the clearing-house system. Just how far country banks will enter the system now proposed to them will doubtless depend in some measure upon the action finally taken by a few of the larger institutions which have developed far-reaching systems of correspondent banks, and which

have not thus far indicated their intention with respect to membership. Conspicuous among such banks is the National City Bank of New York, an institution possessing larger resources than any other in the United States. Not a few country banks which will ultimately join the system are delaying action until toward the end of the period within which their applications must be filed for the purpose of ascertaining the lines upon which the country will be divided into districts. Errors in carrying out this process may drive some of the banks into the state banking systems. There is also a quite general desire to know if possible something of the personnel of the new federal reserve board before a definite decision is reached and the banks commit themselves to membership. It will probably not be possible until the last day of the period set for filing applications to form even an approximate estimate of the complete membership of the reserve system.

RAILROAD CONDITIONS IN THE CENTRAL WEST

In further pursuance of the presentation of the needs of railways as the basis for the current 5 per cent rate advance, fresh information has been compiled with regard to the lines in the central west, which have been classified into three groups for the purpose of making a showing which shall have special application to Central Freight Association territory. In connection with these data filed with the Interstate Commerce Commission the briefs of the roads summarize the main facts as follows:

The lines of Group 1 increased their mileage, 1913 over 1910, as follows: first main track—owned, 684 miles, operated, 828; all tracks—owned, 3,320 miles, operated 3,568. They increased their property investment $225,503,220.

Operating revenue, 1913 over 1910, increased $71,398,933; operating expenses and taxes increased $84,934,336; operating revenue, after deducting operating expenses and taxes, decreased $13,535,403; or, after deducting operating expenses, taxes, and rentals, decreased $15,133,257; or, after deducting operating expenses, taxes, rentals, and hire of equipment, decreased $15,491,764. The decrease in net corporate income was $23,207,414.

The increase in operating revenue, $71,398,933, measures an additional service rendered the public—namely, an increase, 1913 over 1910, in tons carried one mile, of approximately ten billion, or 16.43 per cent; and an increase in passengers carried one mile, of four hundred million, or 7.32 per cent.

Notwithstanding the much larger volume of business enjoyed in 1913 over 1910, the power of the carriers to earn a return on their property declined substantially.

Group 3 embraces 28 companies which operate 19,416 miles, or 54.1 per cent of the entire mileage of the territory. It includes all the mileage in the territory except that of the "four main trunk-line connections," the "coal and ore roads," the "forty-six short roads," and the "excluded mileage" (the B. & O., the Erie, C.B. & Q., etc.), and embraces all the mileage which serves generally the people of the territory, and whose prosperity is dependent upon the territory. Obviously, the reasonable needs of the lines embraced in Group 3—54.1 per cent of the entire mileage of the territory, to say nothing of the forty-six short roads—must control in determining the reasonableness of rates in the territory, if the people in that section are to have adequate transportation facilities and prosper measurably with other sections of the country.

After swelling the volume of business by increased traffic and increasing the property investment approximately one hundred million dollars, Group 3 had remaining in 1913, after deducting operating expenses and taxes, above ten million dollars less money than in 1910. Dividends paid by the lines in this group decreased, in 1913 as compared with 1910, $5,943,035. In 1911 four companies reduced their dividends, in 1912 five companies reduced their dividends, and in 1913 six companies reduced their dividends. Only nine companies out of the twenty-eight in Group 3 paid dividends in 1913.